IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 26343 of 2007(J)

PETITIONER:

S.RATHEESHKUMAR, SENIOR CLERK,
CHITTY AND RECOVERY BRANCH,
ANANTHAPURAM CO-OPERATIVE SOCIETY LTD,
HEAD OFFICE, KAITHAMUKKU, THIRUVANANTHAPURAM.

BY ADV. SRI.GEORGE POONTHOTTAM
SRI.T.R.RAVI
SRI.P.SUBAIR KUNJU

RESPONDENTS:

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1. C.GOPALAKRISHNAN NAIR, ADVOCATE
FORMER PRESIDENT, ANANTHAPURAM CO-OPERATIVE
SOCIETY LTD., KRIPA, RRA 98, RISHIMANGALAM,
VANCHIYOOR, THIRUVANANTHAPURAM.

2. BIJU PRASAD, ADMINISTRATOR/
CO-OPERATIVE INSPECTOR,
ANANTHAPURAM CO-OPERATIVE SOCIETY LTD.,
KAITHAMUKKU,THIRUVANANTHAPURAM.

3. JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL)THIRUVANANTHAPURAM.

4. THE SECRETARY, ANANTHAPURAM
CO-OPERATIVE SOCIETY LTD,
KAITHAMUKKU, THIRUVANANTHAPURAM.

5. KERALA LOK AYUKTA, REPRESENTED BY ITS
DEPUTY REGISTRAR, OFFICE OF THE KERALA
LOK AYUKTA, LEGISLATURE COMPLEX,
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM.

R1 BY ADV. SRI.K.RAMAKUMAR
SRI.M.H.HANIS
R4 BY ADV. SRI.C.P.MOHAMMED NIAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF ORDER DT.1.5.2007.

P2: TRUE COPY OF THE ATTENDANCE REGISTER MAINTAINED AT THE CHITTY RECOVERY BRANCH DURING THE MONTH OF MAY, 2007.

P3: TRUE COPY OF THE LEAVE APPLICATION DT.1.5.2007.

P4: TRUE COPY OF THE LETTER DT.31.8.2007.

P5: TRUE COPY OF THE ORDER IN COMPLAINT NO.1928/2007 DT.20.8.2007.

RESPONDENT'S EXHIBITS:

R1(a): TRUE COPY OF COMPLAINT DT.14.8.2007 SUBMITTED BY PETITIONER.

R1(b): TRUE COPY OF COMPLAINT DT.6.7.2007 FILED BY PETITIONER.

R1(c): TRUE EXTRACT OF ATTENDANCE REGISTER AS ON 30.4.2007.

TRUE COPY

PA TO JUDGE

ANTONY DOMINIC, J.

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W.P.(C) No.26343 of 2007

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Dated this the 6th day of November, 2007.

JUDGMENT

The challenge in this W.P. is against Ext.P5, an order passed by the 5th respondent restraining the respondents in Complaint No.1928/2007 from permitting the petitioner herein from discharging the duties as a clerk in the society until further orders.

2. The principal contention that is raised before me is that the petitioner has not been impleaded as a party to the proceedings and it is without giving him notice or hearing that the order has been passed. In my view this order could not have been passed without making the petitioner a party to the proceedings or without giving the petitioner an opportunity of hearing.

3. Therefore, I am not in a position to sustain Ext.P5. Ext.P5 will therefore stand quashed. I clarify that I have not adverted to the merits of the contentions of either of the parties and this judgment shall be without prejudice to the right of the first respondent to implead proper parties to the proceedings.

The W.P. is disposed of as above.

ANTONY DOMINIC
Judge

pms